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PARALLEL UNIVERSE: Revealing the Community Cost of the Business Victim

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National Institute for Commerce Protection (NICP)

Introduction & Overview



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The mission of the NICP is to strategically improve and facilitate the effectiveness of the government –business interface for the protection of commerce from disruptive or criminal elements that impede on economic prosperity, safety and security.

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1. Overview:

In all industrialized countries there are two concurrently running economies. There is the legitimate sanctioned, licensed and legitimate economy and there is also the “Shadow Economy” that trades in stolen, counterfeit or illicit property. The legitimate economy serves to anchor communities, create jobs and produce revenue for state and local governments through taxation. The “Shadow Economy”, however, destroys communities, costs jobs, reduces tax revenues and increases violent criminal activity. The financial rewards from the “Shadow Economy” are significant for those both directly and indirectly involved in perpetuating commercial crime. Because of the profitability of this “Shadow Economy”, it is continually becoming more entrenched within our current national economic system. As it becomes more entrenched, our local economies increasingly suffer.

Although identifying the exact size of the “Shadow Economy” is difficult, economists have estimated that from 1988 to 2000 “The “Shadow Economy” represented 14-16 percent of the GDP for the top 21 developed nations” (Fund, 2002). No other comprehensive study has been conducted on the “Shadow Economy” since this 2002 study by F.S. Fund and his team. It is certainly reasonable to estimate that this percentage has increased significantly over the last 10 years, considering the many changes that have taken place within the United States during this period and the lack of any comprehensive program to combat this “Shadow Economy”.

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Over the last decade, a perfect storm has created an environment where the “Shadow Economy” is beginning to overrun the limited law enforcement measures currently in place to combat its growth. Some of the major changes creating this perfect storm include advancements in technology; the increasing global presence of mainland China; the terrorist attacks of September 11th 2001; an increase in Illegal Immigration and the recent downturn in our national economy. The impact of this increase in organized commercial crime seriously threatens the economic future of our country.

Ms. Aubrey Fox elaborates on the effects of this perfect storm in her article, *Crime*, which appeared in the Gotham Gazette.

“About 8 percent of the approximately \$287 billion in counterfeit goods sold in the United States annually is sold in New York City, resulting in over \$1 billion in lost tax revenue, according to a 2004 report released by New York City Comptroller William Thompson. Counterfeiting also represents a drag on the economy: An estimated 750,000 jobs have been lost in the United States to counterfeiters, according to the United States Customs and Border Protection Agency (2008).”

Another telling report is from the Los Angeles Economic Development Corporation (LAEDC) which conducted an economic impact study of just one type of crime (counterfeit goods) on their local economy.

“LAEDC concluded the loss to Los Angeles County firms from piracy and counterfeiting to be an estimated \$5.2 billion in 2005. In addition, the underground economy fueled by piracy and counterfeiting diverted \$2 billion from the County’s legitimate retail sector, cost 106,000 jobs and \$5 billion in wages, and deprived state and local governments of nearly \$500 million in tax revenue. “ (Los Angeles Economic Development Corporation, 2007)

2. Technology Advancements:

Technology contributes to the “Shadow Economy” in many unforeseen ways. For example, the advent of the internet and the explosion of home computer use have provided various platforms for anonymous selling to take place through such venues as E-bay, Amazon, Craig’s list and other private websites that appear to the consumer to be legitimate businesses. While E-bay and the like continue to work diligently to address the use of their sites for nefarious purposes, criminals are persistent and will need to be constantly rooted out. Anonymous sales to limitless markets via the internet significantly strengthened the “Shadow Economy”. After all, the ultimate goal of anyone participating in the “Shadow Economy” is to make money both undetected and unreported. The ease of making websites and hiding the owners and the ability to operate “within the United States” from off shore via websites has allowed for the sale

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and delivery of contraband directly to the consumers using various mail and delivery services.

3. China's Influence:

China is the worldwide center for inexpensive mass production and it has grown rapidly to get to this point over the last few decades. As a result, the world has rushed to build factories in mainland China. These factories provide the resources to make anything, whether licensed or not.

"Most counterfeits come from China, where experts believe that anywhere between two-thirds and 85 percent of all fake goods are manufactured. According to Caroline Joiner, Executive Director of the Global Intellectual Property Center at the U.S. Chamber of Commerce, a quarter of China's non-farm workforce, or 35 million people, are engaged in the production of counterfeits. Many work the so-called "ghost," or third shift, in which factories produce two shifts of legitimate items but stay open overnight to produce counterfeit goods" (Fox, 2008).

With 35 million Chinese producing counterfeit goods, many countries have become dependent on their transportation and sale. In his book "Illicit: How smugglers, traffickers, and copycats are hijacking the global economy", Dr. Moises Naim developed research indicating that if counterfeit good sales were completely stopped, it would totally destabilize the economy of over 60 countries (2006).

4. Illegal Immigration:

The history of organized crime is rooted in immigrant communities, who isolate themselves from the country's mainstream communities. An influx of illegal immigrants within the United States continues to fuel this phenomenon and strengthens organized crime groups within these isolated communities.

"The downside to America's open heart and outstretched arms was a public concern – indeed, alarm – that our too-open post-war policies were letting criminal aliens, communists, subversives and organized crime figures enter or remain in the United States along with legitimate refugees" (US Immigration and Naturalization Service, 2008).

Many of these illegal immigrants are importing and selling counterfeit goods to fund themselves. Some of the illegal enterprises in which they involve themselves include, stealing and selling property, human trafficking and drug smuggling. These groups are isolated from mainstream society and many in the criminal element are military trained

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and even combat experienced individuals who openly use violence to maintain control, combat competition and eliminate those who oppose their conduct. Their communities are also often closed to local law enforcement so criminal intelligence is limited.

5. Post 911:

The attack on America on September 11, 2001, facilitated a profound change in the United States. In response, the FBI was re-tasked from its traditional roles to a much heavier focus on counter terrorism (Bruce Gebhardt, 2004). While terrorist funding can be found in several aspects of the "Shadow Economy", the FBI does not have the resources necessary to deal with it on their own. Consider the list of current FBI priorities in Table 1 below and note where "Retail Theft" or "Cargo Theft" are listed.

Table 1 Taken from <http://www.fbi.gov/hq.html> (FBI, 2008)

National Security Priorities	Criminal Priorities	
1. Counterterrorism <ul style="list-style-type: none">• International Terrorism• Domestic Terrorism• Weapons of Mass Destruction	4. Public Corruption <ul style="list-style-type: none">• Government Fraud• Election Fraud• Foreign Corrupt Practices	7. White-Collar Crime <ul style="list-style-type: none">• Antitrust• Bankruptcy Fraud• Corporate/Securities Fraud• Health Care Fraud• Identity Theft• Insurance Fraud• Money Laundering• Mortgage Fraud• Telemarketing Fraud• More White-Collar Frauds
2. Counterintelligence <ul style="list-style-type: none">• Counterespionage• Counterproliferation• Economic Espionage	5. Civil Rights <ul style="list-style-type: none">• Hate Crime• Human Trafficking• Color of Law• Freedom of Access to Clinics	8. Major Thefts/Violent Crime <ul style="list-style-type: none">• Art Theft• Cargo Theft• Crimes Against Children• Cruise Ship Crime• Indian Country Crime• Jewelry and Gems Theft• Retail Theft• Vehicle Theft• Violent Gangs
3. Cyber Crime <ul style="list-style-type: none">• Computer Intrusions• Online Predators• Piracy/Intellectual Property Theft• Internet Fraud	6. Organized Crime <ul style="list-style-type: none">• Italian Mafia/LCN• Eurasian• Balkan• Middle Eastern• Asian• African• Sports Bribery	

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6. Economic Slowdown:

The presence of the “Shadow Economy” becomes clearer when contrasted against the backdrop of our current economic slowdown. In the current economy, the loss from inventory “shrinkage”, the unfair advantage of competitors selling stolen property and the devastation of IP theft are all combining to have a significant impact on our recovery. As times get harder and people are lured by the lower prices and always “looking for a deal”, they create the demand for these lower cost stolen or counterfeit goods and a resulting market explosion in the “Shadow Economy”.

“To add to this challenge, the current economic slowdown is certain to accelerate the growth of the “Shadow Economy” and take an even greater toll on our legitimate businesses. In a survey of 124 American cities from 36 states, 42 percent report an increase in crime due to current economic conditions” (The U.S. Conference of Mayors, 2008).

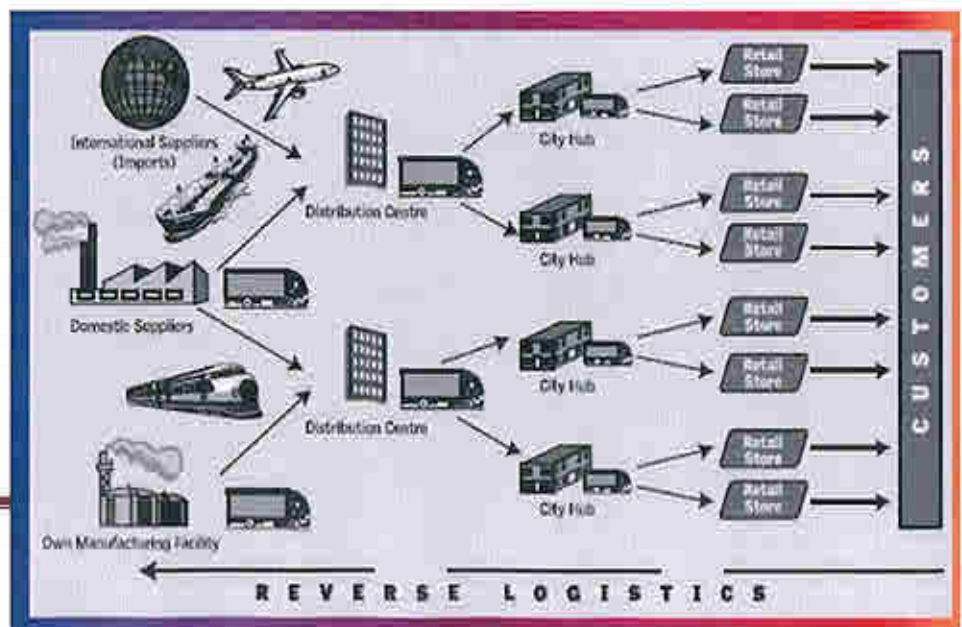
This situation will prolong our recovery or even stop it until we intervene and this is a global problem that increases crime and violence.

“In all catastrophes, there are always winners among the host of losers and victims. Bad times, like good ones, generate profits for someone. In the case of the present global economic meltdown, with our world at the brink and up to 50 million people potentially losing their jobs by the end of this year, one winner is likely to be criminal activity and crime syndicates. From Mexico to Africa, Russia to China, the pool of the desperate and the bribable is expanding exponentially, pointing to a sharp upturn in global crime. As illicit profits rise, so will violence in the turf wars among competing crime syndicates and in the desperate efforts by panicked governments to put a clamp on criminal activity.” (Klare, 2009)

7. The Global Supply Chain:

The global supply chain is under attack at all stages. The following table illustrates at a high level how the global supply chain works. This graphic allows us to visual a process wherein goods move into markets in a “healthy system”. Each step of the process is vulnerable in different ways and

Table 2



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requires knowledgeable professionals in the public and private sector to combat the exploitation of those weaknesses. Each of these environments is also vulnerable to workplace violence, violence in or near the property and against the customers and employees.

8. Attacks on the Supply Chain:

The “Shadow Economy” is simply a term to describe the exchange of goods for currency outside of the sanctioned economy. The “Shadow Economy” is a series of small groups of opportunists stealing and selling stolen property. These stolen goods are sold directly to the public via the internet, but more commonly to other intermediaries who then sell to the public. This type of theft can occur anywhere along the supply chain depicted in Table 2 (page 6). The factories get burglarized and goods stolen. Goods are stolen from trains, cargo containers, aircraft, semi trailers, warehouses, store shelves, or anywhere that criminals can get their hands on them. These groups are small and often specialize in stealing from a specific part of the supply chain. In most cases, the thieves already have a customer or fence waiting for the stolen goods.

What makes investigating these groups more difficult than the organized crime families of the past is that these small groups have very little connection to each other, except for their illegal business dealings. The traditional method of mapping relationships, tracking financials and taking down the head of the family are not as effective in this cellular “business” model that exist today.

The business of crime looks like any other business that exchanges goods and services, with the exceptions that they steal, which lowers their overhead, and they use violence to minimize competition.

“Today's diverse organized crime groups are operationally more like corporate raiders, only the criminals use violence and illegal methods to solidify their market and profit” (David L. Carter, 1994).

Currently there are no known studies to examine the impact of the “Shadow Economy” on the entire global supply system. However, we can get a ball park figure on the number of jobs lost directly to the “Shadow Economy”. Using the U. S. Census Bureau standard that the median household income in 2007 was \$50,422, and estimating that at least one working person lives in each household, we can perform some rudimentary calculations (U.S. Census Bureau, 2008). Using the \$50,000 mark divided into the total

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amount of loss per industry will lead to an estimate of the jobs lost within the industry. While this is an over simplification of the math, it does provide a quick high level view of the impact. These calculations show that approximately 20,000 jobs are lost for every \$1 billion stolen. This rough calculation closely matches the number of jobs lost per \$1 billion reported by the Los Angeles Economic Development Corporation study previously referenced. (106,000 jobs lost based on an estimated \$5.2 billion loss to Los Angeles County firms from piracy and counterfeiting). Accordingly, although some industries estimate a higher amount of job loss and some lower, this is good average for discussion purposes. Conversely, any program reducing victimization will increase jobs, which in turn increases economic stability and prosperity.

An examination of Table 3 on the following page shows a few of the crimes occurring in the business sector and the massive amount of loss they cause.

Table 3 Sample of crimes that affect businesses References in footnotes ¹

Organized Retail Theft	•Approximately \$30 Billion in losses nationwide ¹
Cargo and Freight Theft - 18 Wheelers, Train cargo, shipping containers , Includes	•Up to 60 Billion dollars nationwide ² •Approx 300,000 midlevel manufacturing jobs lost ²
Financial Fraud (white collar crimes, credit card fraud, ID theft etc)	•315 Billion dollars ³
Intellectual Property/Counterfeiting	•\$250 Billion per year ⁴ •750,000 Jobs lost ⁴
Commercial Burglary	•Unknown - Historically not tracked seperate from residential nor by dollar value
Return Fraud	•11.5 Billion in loss to retailers ⁵
Business Robbery	•no current data seperating business robbery. Dollar value historically low due to prevention strategies at banks and convenience markets.

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Loss also occurs due to price suppression. When stolen goods enter the marketplace, they are sold significantly cheaper due to the lower overhead; the need to get rid of the “evidence” and control of the competition through violence or simply the threat of violence. These lower priced items compete with normal priced items and produce artificial price competition that impedes the legitimate economy. This means that businesses not impacted directly through crime are, in fact, impacted indirectly by the necessity of lowering their prices to compete for business. The artificial suppression of pricing and profit has a direct impact on the government's ability to provide services.

There are over five million businesses in the United States dedicated to every aspect of the system, from manufacturing and distributing goods, to marketing and selling goods via retail outlets. Our government is funded directly² and indirectly³ through the success of businesses and commerce. (See table 4). It is through taxation that government entities, at all levels, are able to fund their operations, projects and programs. Considering the dire economic situation our city and state governments are in, and the increasing violent crime related to these operations, we can no longer afford to look at these issues as only property crimes.

Table 4 2007 City of Phoenix Revenue Sources for the General Fund used to pay for police and fire services (Table 4) State shared revenue is composed of five separate programs including collected state transaction privilege tax, and income taxes, redistributed to all incorporated cities based on population



2007 City of Phoenix Revenue Sources

² Direct taxation includes but is not limited to corporate tax, employment tax and sales tax.

³ Indirect taxation includes but is not limited to employee taxes, fees, licensing and permits

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While many crimes reduce retail sales tax by selling untaxed stolen goods in the market, one specific crime actually takes money directly from the city's coffers. The crime of return fraud is one where the suspects steal the items and return them, either for cash (with a fake receipt) or for store credit. These returns include retail sales tax on items where no tax was ever paid. So the municipalities actually lose money each time one of these is successful. The National Retail Federation estimated loss due to return fraud at 10.8 billion dollars in 2007. Using an average sales tax of 8 percent nationally⁴ we can estimate the loss directly from the coffers of our government at 80 million dollars. This is not money denied our government, but tax money stolen directly from our governments and given to criminals.

To understand this relationship completely, it helps to envision the economy as a healthy "organism". Crimes against businesses are a parasite draining resources from the "organism". Law enforcement is the "immune system" designed to fight the parasite. The longer and more successfully the parasite exist, the weaker the organism and the more suppressed the immune system. Eventually the immune system is no longer able to be effective and the organism dies. This death can be localized in the form of urban blight or nationalized in the form of industry cutbacks due to uncontrollable losses.

Without a strong police presence to enforce laws in a community opportunistic violent crime will climb as lawlessness takes over and urban blight spreads. It is not possible for these communities to recover without the help of the federal government due to the lack of local economic viability. Without sales tax, police services designed to suppress violent crime would be heavily impacted.

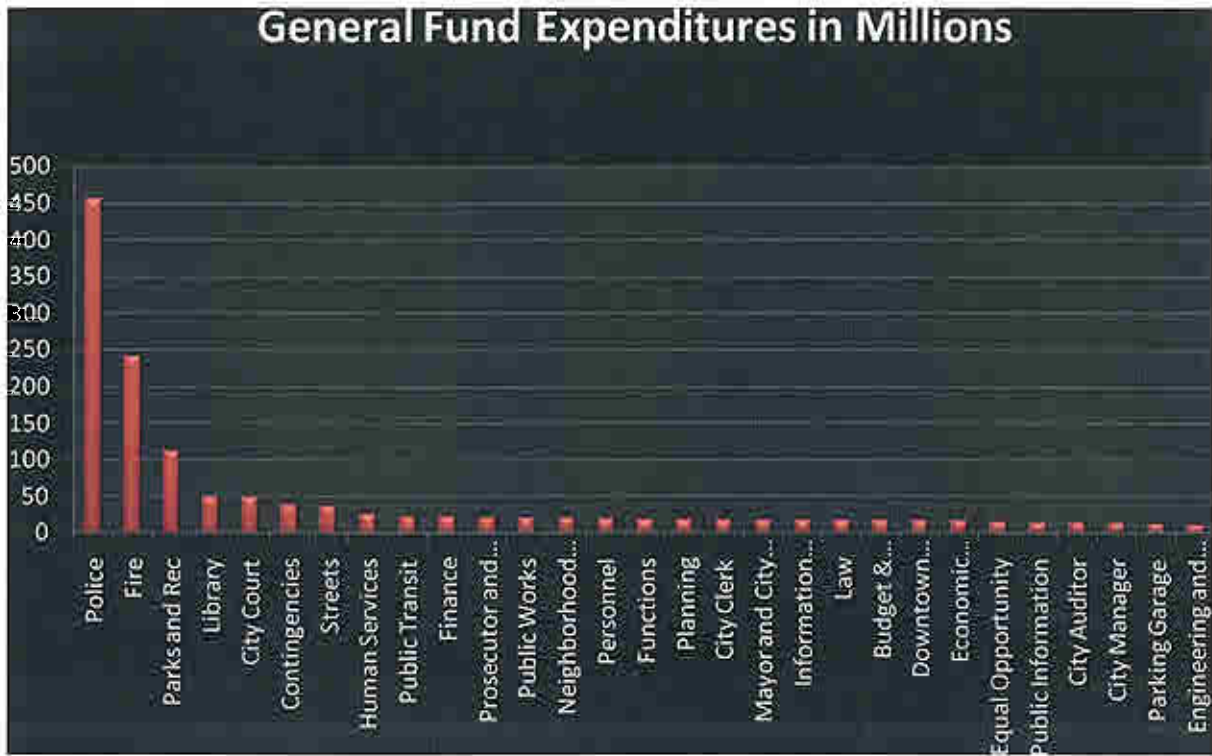
At the municipal level, sales taxes are the main source of funding for police services (see table 5 for the City of Phoenix as an example). In return, among other duties, police are tasked with protecting businesses within their community. This situation places businesses and government in a relationship of mutual dependency. When reviewing the data in Tables 4 and 5 for the City of Phoenix, we see that sales taxes are a major funding source for municipalities. We also see that the cost of the Police function is the major expense in the city budget. Yet, combating the "Shadow Economy" to increase the sales tax funding base is not a high priority within local police departments in today's world. This is due to the pressure to impact violent crimes, which make headlines and upset residents. However, other than crimes of passion and random violence, the best way to impact violent crime will be to remove the profit from the "Shadow Economy". This will reduce violent crime, reduce victimization of businesses and increase police resources to combat other areas of the crime spectrum.

⁴ This is an average of sales taxes collected at the point of sales in all 50 states for state, county and city taxes.

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Table 5

(City of Phoenix, 2007)



An example would be the recent cutbacks by the Recording Industry Association of America, which was once a thriving business. Due to technology changes and overwhelming piracy issues, it reduced its workforce by 30 percent in 2009.

Likewise, many businesses will quietly disappear since they are small, privately-owned companies, without loss prevention experts or even basic training in crime prevention, detection or suppression. Since over 90 percent of all businesses are considered “small businesses”, the danger of destabilizing local economies is very real (Census Bureau, 2002) and the outcome seems inevitable.

Currently, each municipality is fighting a small portion of this massive parasite. Divided by location and limited in resources, with few exceptions, these battles are failing. In an effort to stem the tide of their own destruction and in response to a suppressed immune system, large businesses have begun to shoulder the burden of investigations. They have started hiring internal teams to assist in the fight against the “Shadow Economy parasite.” However, this additional drain on business revenue hastens their demise. A study conducted by the National Retail Federation states that one in ten

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retailers is spending more than one million dollars a year to prevent and fight organized retail crime (National Retail Federation, 2007).

The return on investment from this effort is minimal since the businesses only control the investigation portion, and not the prosecution portion of the process. Unskilled and overburdened police officers are often in fact an obstacle to the prosecution process. General apathy to “property crimes” is common in our society and this has impacted the resources dedicated to this “lower priority” crime type. The issue of apathy continues throughout the entire system, to include prosecutors, judges and even juries. Most fail to understand the economic link between business success and public safety. The best way to impact this apathy is to educate stakeholders in understanding the issues and how our society is affected by property crimes as a whole and how it is related to the violent crime we are invested in stopping. It is important to recognize a few facts. The first is that the reason to sell drugs is for the money. The second is that counterfeit and stolen goods are estimated to be 600 times more profitable than drugs. The third is that no studies have ever been done to quantify the amount of violent crime related to trafficking in stolen or counterfeit property. This would be difficult since many of the same distributions systems for drugs, also distribute counterfeit goods and stolen property due to the profit and low enforcement.

9. Understanding Crime:

In order to understand the basics of crime we can use an extremely simplified tool is called the crime triangle.

The crime triangle states that in order for a crime to occur you need three things; a suspect, a victim and a location. However, not all victims are the same, not all suspects use the same methods and each location provides its own set of challenges in which to commit crime. Recognizing this, criminologists created the next evolution of the crime triangle, representing a deeper understanding of crime as a whole.

Along with the three elements provided in the original crime triangle, researchers found that suspects use a crime triangle of their own when committing a crime. This triangle represents the three things needed for a suspect to commit a crime against a given victim. These three questions are; do the benefits outweigh the risks? (Opportunity to make money), Do I have the resources and knowledge to succeed? (Ability) and is there a



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reasonable expectation of success? (Desire not to go to jail). When the answers to these questions are positive, the crime will occur.

These triangles simplify the issues of crime and provide a simple solution. If any aspect of the crime triangle is impacted it will impact the ability of the suspect to succeed in his crime.

It is important to understand that if property crimes are for the money, violence is used to ensure success or maintain a competitive edge.

“An average of 1.7 million people were victims of violent crime while working or on duty in the United States, according to a report published by the Bureau of Justice Statistics (BJS), each year from 1993 through 1999. An estimated 1.3 million (75%) of these incidents were simple assaults while an additional 19% were aggravated assaults. Of the occupations examined, police officers, corrections officers, and taxi drivers were victimized at the highest rates. The Bureau of Labor Statistics’ Census of Fatal Occupational Injuries (CFOI) reported 11,613 workplace homicide victims between 1992 and 2006. Averaging just under 800 homicides per year” (National Institute for Occupational Safety and Health, 2008)

10. Violent Crime, Business and the Shadow Economy

Violent crime occurs to businesses (robbery), at businesses (assault, workplace violence), because of business (robbery of a customer) or as a business (“Shadow Economy”).

Violent crime increases due to business presence is a result of businesses attracting people to an area and suspects taking advantage of the concentration of low awareness targets. Violent crime as a business involves the use of violence to fight off competition in the “Shadow Economy”, to obtain goods from the business victims, and to punish low producers or “double crossers”.

Consider this excerpt from the Loss Prevention Research Council’s Organized Retail Crime Annual Report.

“Organized retail crime creates more than just economic losses. Violence is a regular feature of ORC operations. The continued presence of organized criminals working and stealing in shops threatens the safety of shoppers and employees alike. Shoplifting and hijacking frequently involves violence, fear and even death (Lockridge, 2003; Longoria, 2002; Oliver, 2001; Zeman et al, 2001). ORC members use their “paid muscle” to beat competitors with baseball bats, run them off the road, shoot into their houses, and kidnap their family members in the US and overseas. They also regularly threaten, cut and shoot each other as

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members skim, steal from, rob each other, and try to buy stolen goods from the “best” boosters. High-level wholesalers, local fences and booster crews have been known to beat, wound and even kill suspected competitors and informants.” (Read Hayes, 2008)

This is just related to organized retail crime, and regardless of the method, the item taken or the size of the organization, the members of the “Shadow Economy” will use violence to protect their ill gotten gains and their supply and distribution networks. What Is Currently Being Done:

National Associations, which were originally formed to provide political lobbying support, have added another focus to their agenda. They have begun training local law enforcement investigators and politicians about the problems plaguing their industry. These associations are funded by their members and are often non-profit organizations. This means they do not have the funds to reach large numbers of investigators and more often, the investigators pay for the training personally. This means most training sessions are attended by only local investigators.

Additionally, “business watch” type programs have sprung up across the country to support the smaller “mom and pop” businesses. In 1998, the Safe Business Network was started by Detective David Lake of the Phoenix, AZ, Police Department. This program involved an officer working with local businesses to address issues that were affecting those businesses. Information was shared and techniques developed to reduce victimization. This occurred in two specific test areas. The first test area gained some active support from local businesses, and through some networking events they reduced the graffiti problem they were experiencing. This set into motion a swell of activity for well over a year after the test was concluded. The community picked up the process of information sharing, active observation and community alerts to take control of their own environment. As of February 2009, this group still meets quarterly, they still actively observe the area between the sidewalks and their front doors and they send out emails to the group if they see something suspicious. The government and the police receive these emails as part of the group, but they do not drive this situation. It is completely community owned at this point.

The second test area formed an e-mail communication network. This network effectively dropped business victimization and auto theft from two events a day to one event per week. This group has also maintained its activity without any government financial support since 1998 and it represents the foundational idea of community-based policing.

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A few of the largest agencies have added units to investigate organized retail theft or to impact counterfeit goods sales. However, there are very few agency specific details available. In addition, there is no standardized training or investigative process available. They learn through trial and error. Most industry representatives who have approached agencies to request the formation of dedicated investigative teams are advised that there are not enough resources to be tasked in this way. With the needs increasing and the resources diminishing, political pressure is rising for the government, at all levels, to do something. In October 2008, under President Bush, an Intellectual Property (IP) Czar was created and 25 million dollars was allocated to its creation and development. Unfortunately, the creation of the IP Czar did not include lobbying for additional man power on the streets or a standardized training system.

11. Solutions

Many things have to change but the biggest is that we must ensure sound investigations that take simple property crimes into more effective directions that offer more effective prosecutorial options. Is it a simple shoplifting or is it part of an organized operation making money on return frauds and fencing goods? Will the prosecutors understand the complexity and urgency presented in the investigation or go for the easiest charge to plead. Will the officers collect the proper information in the right way so that it can be presented in court to a jury with simple to understand evidence? These things are happening in specific cases. Relationships with the prosecutors and establishing acceptable thresholds for prosecution are important and must be part of any effort to suppress the shadow economy. Ultimately without successful prosecution there is no crime suppression. Without the penalty there is no adjustment by the criminal element to reduce or stop their activity. What must change is the entire paradigm involved in the investigation and prosecution of property crime suspects to determine where the goods are going and where they are entering the market (MRP). The MRP must remain the ultimate target and be prosecuted aggressively when found.

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